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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2002 and 2003

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 55/258, which, in section XI, paragraph 5, had requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/58/300 of 20 August 2003) provided information concerning the outcome of the work of the Board for 2001-2002. The present report provides information on the work of all Joint Appeals Boards for the year 2003; and, for comparative purposes, further contrasts the data for 2003 with those for 2002.

* A/59/50 and Corr.1.

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Introduction

1. In section XI, paragraph 5, of its resolution 55/258 of 14 June 2001, the General Assembly requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board (JAB). In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/58/300 of 20 August 2003) provided information on the work of all JABs for the period 2001-2002. The present report provides information and numerical data on the work of the Boards for the year 2003.

Outcome of the work of the Joint Appeals Board

2. Table 1 below and its accompanying figure set out information, in numerical and graphic form, on the work of the JABs in New York, Geneva, Vienna and Nairobi for the years 2002 and 2003 by providing the number of appeals and suspension-of-action cases filed and disposed of[1] during that year.

3. As can be seen from table 1 and its figure, there was a decrease in the number of appeals filed with most of the JABs during 2003, except for the Geneva JAB. The New York JAB, which received 13 fewer appeals than the year before, represents a decrease of 13 per cent. As for the corresponding figures for the other JABs, the Geneva JAB received 6 more appeals in 2003 than in the year before, for an increase of 21 per cent. The Vienna JAB received 6 fewer appeals in 2003, for a decrease of 40 per cent, and the Nairobi JAB received 1 less appeal, for a decrease of 8 per cent.

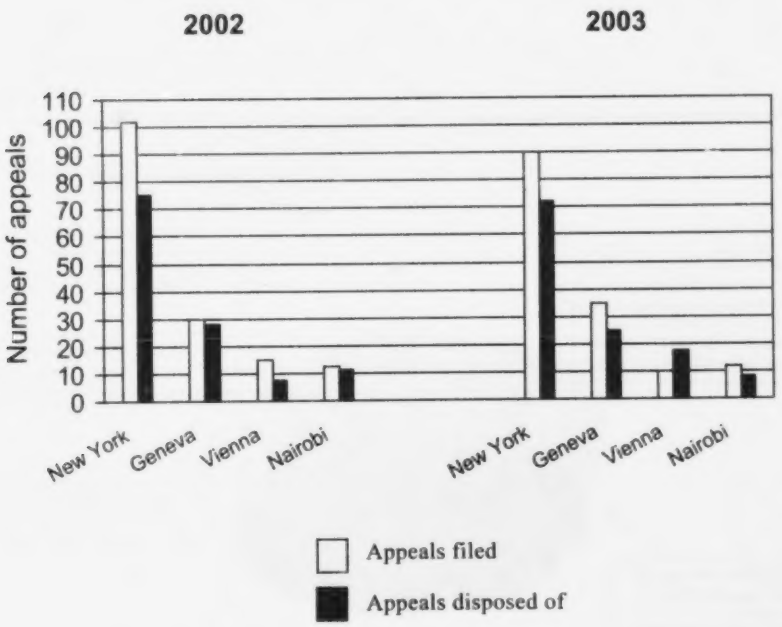
4. Another difference between the two periods concerns the number of cases disposed of by the Boards: while the number of cases disposed of by the New York JAB was slightly smaller than the number of cases disposed of during 2003, for a decrease of 3 per cent, the Geneva JAB disposed of 4 fewer cases during 2003, thus reaching a decrease of 14 per cent. The Vienna JAB disposed of 11 more cases in 2003 than during 2002, thus showing a substantial increase in output of 180 per cent, while the numbers of the Nairobi JAB indicate a decrease in output of 27 per cent.

5. As to the number of pending appeals during the reporting period, it was effectively nil in the Vienna JAB. The Nairobi JAB had 17 pending appeals whereas the Geneva JAB had 36 pending appeals. The New York JAB continues to have the highest number of pending cases, though there was a noticeable decrease in the backlog from 150 cases in 2002 to 117 by the end of 2003. However, not all of those cases were ready for consideration by JAB; indeed, the number of cases where the exchange of written pleadings between the parties had been completed was 47 by the end of 2003.

6. Disciplinary cases are also handled by the JAB secretariats and are always considered on a priority basis. In 2002, the New York Joint Disciplinary Committee (JDC) had considered 8 disciplinary cases, whereas the Geneva JDC considered 3 cases. In 2003, the New York JDC considered 12 disciplinary cases, the Geneva JDC considered 2 disciplinary cases and the Nairobi JDC considered 4 disciplinary cases. No cases were submitted to the Vienna JDC during 2003.

Table 1
Number of appeals and suspension-of-action cases filed and disposed of by all JABs in 2002 and 2003

Standing JABs	*2002*	*2003*	*Percentage change*
New York: appeals filed	102	89	-13
New York: appeals disposed of	74	72	-3
Geneva: appeals filed	29	35	+21
Geneva: appeals disposed of	28	24	-14
Vienna: appeals filed	15	9	-40
Vienna: appeals disposed of	6	17	+180
Nairobi: appeals filed	13	12	-8
Nairobi: appeals disposed of	11	8	-27



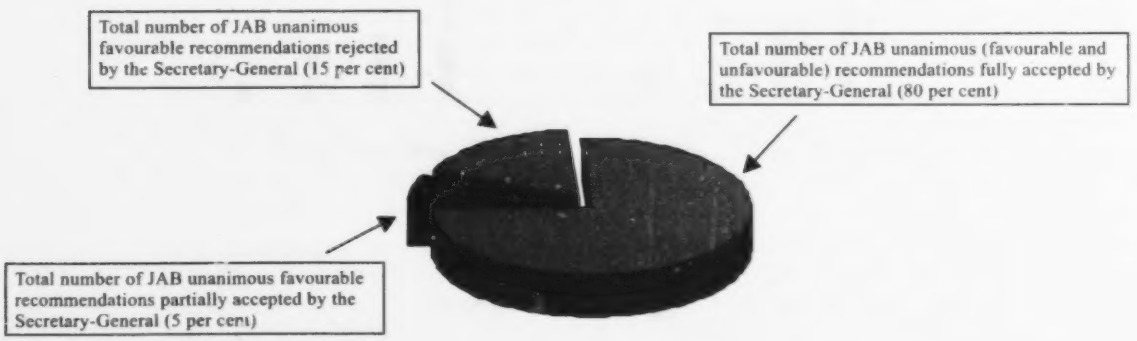
7. Table 2 and its accompanying figures provide information, in numerical and graphic form, on the decisions taken by the Secretary-General on JAB reports for the years 2002 and 2003:

Table 2
Breakdown of decisions taken by the Secretary-General on unanimous JAB recommendations on appeals and requests for suspension of action in 2002 and 2003

2002

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	60	56	42 (75%)	3 (5%)	11 (20%)	30 (54%)
Geneva	14	14	13 (93%)	1 (7%)	0	10 (72%)
Vienna	3	3	3 (100%)	0	0	3 (100%)
Nairobi	8	7	6 (86%)	0	1 (14%)	5 (72%)
Total	**85**	**80**	**64 (80%)**	**4 (5%)**	**12 (15%)**	**48 (60%)**

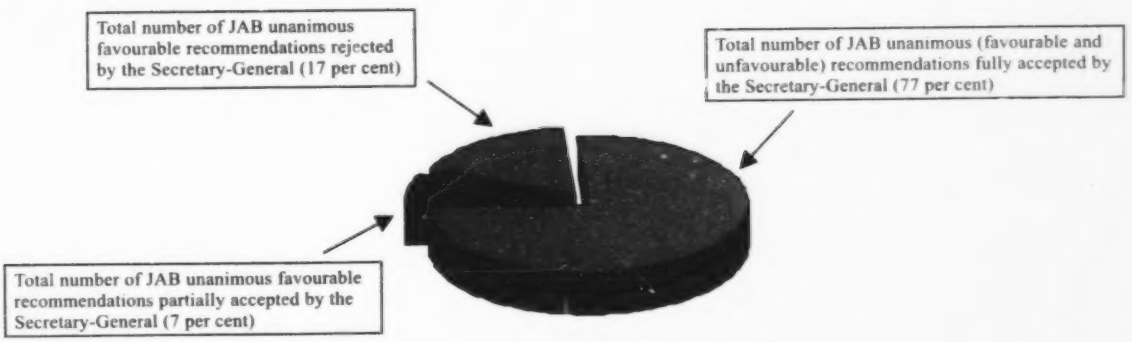
85% (full and partial acceptances)


Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (15 per cent)
Total number of JAB unanimous (favourable and unfavourable) recommendations fully accepted by the Secretary-General (80 per cent)
Total number of JAB unanimous favourable recommendations partially accepted by the Secretary-General (5 per cent)

2003

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	66	65	49 (75%)	6 (9%)	11 (18%)	40 (62%)
Geneva	28	27	23 (85%)	0	4 (15%)	18 (66%)
Vienna	6	6	3 (50%)	0	3 (50%)	3 (50%)
Nairobi	8	8	7 (88%)	1 (13%)	0	3 (38%)
Total	**108**	**106**	**82 (77%)**	**7 (7%)**	**18 (17%)**	**64 (60%)**

84% (full and partial acceptances)


Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (17 per cent)
Total number of JAB unanimous (favourable and unfavourable) recommendations fully accepted by the Secretary-General (77 per cent)
Total number of JAB unanimous favourable recommendations partially accepted by the Secretary-General (7 per cent)

8. As can be seen from table 2 above and its accompanying figures for the years 2002 and 2003, the percentage of full and partial acceptances by the Secretary-General of the unanimous JAB recommendations was kept at similar levels (85 per cent for 2002 and 84 per cent for 2003). As for the percentage of rejections by the Secretary-General of unanimous JAB recommendations that were favourable to the appellants, it was relatively low in both periods (15 per cent in 2002 and 17 per cent in 2003).

9. This is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations, unless there is a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for the rejection, which in most cases is attributable to the incorrect application of law or policy by JAB or fact-finding that is inadequate and not supported by the available evidence. With the increased training for the members of JAB/JDC in the applicable law and policies of the Organization and the availability of the web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onward), the Secretary-General trusts that unanimous recommendations will be more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently the percentage of acceptable recommendations would rise. The Secretary-General would still have the discretionary authority, however, to reject unanimous JAB recommendations, should he find that it was in the interest of the Organization to do so.

Notes

[1] The term "disposed of" refers to appeals with respect to which JAB has completed its involvement. The figures may include appeals that, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.